

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAURENCIO BAUTISTA CRUZ,)	
Plaintiff,)	
)	No. 1:16-cv-569
-v-)	
)	HONORABLE PAUL L. MALONEY
FIXEL & NYEHOLT, PLLC ET AL.)	
Defendants.)	
_____)	

ORDER ADOPTING REPORT AND RECOMMENDATION

On July 28, 2016, all named parties in two separate but related cases appeared at a settlement conference with Magistrate Judge Phillip J. Green; an omnibus agreement was reached to resolve both *Bautista Cruz v. Don Pancho Market, LLC et al.*, No. 1:15-cv-698 (“*Cruz I*”) and *Bautista Cruz v. Fixel & Nyeholt, PLLC et al.*, No. 1:16-cv-569 (“*Cruz II*”). (ECF No. 59 in *Cruz I*.) The Court referred the parties’ subsequent motion for settlement to the Magistrate Judge for a Report and Recommendation. (ECF No. 63 in *Cruz I*; ECF No. 11 in *Cruz II*.)

The Magistrate Judge found the underlying settlement in this FLSA action to be reasonable, consistent with relevant authority. *See Lynn’s Food Stores, Inc. v. U.S.*, 679 F.2d 1350, 1352 (11th Cir. 1982) (citing *Schulte, Inc. v. Gangi*, 328 U.S. 108, 113 n.8 (1946)) (“When employees bring a private action for back wages under the FLSA, and present to the district court a proposed settlement, the district court may enter a stipulated judgment after scrutinizing the settlement for fairness.”). The Court agrees. The settlement amount and terms are fair and adequately compensate Plaintiff for compensation owed, liquidated damages, and retaliation damages as provided in the FLSA.

The only remaining issue, then, is the reasonableness of the proposed attorney fees. (ECF No. 10.) Plaintiff’s counsel claims an expenditure of 176 hours in attorney fees and 7 hours in

paralegal time, with a corresponding fee total of \$61,105.00. (ECF No. 64 at PageID.453.) To facilitate settlement, however, the agreement apportions \$42,500.00 in attorneys' fees and costs. (*Id.*) Even accepting the number of hours at face value, the adjusted rate per hour seems high. However, the Court ultimately concurs that Plaintiff's "excellent results" exceeded any expectations (*id.* at PageID.453), and these cases together remain the rarest of exceptions—in more ways than one.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation. (ECF No. 64 *in Cruz I*; ECF No. 12 *in Cruz II*.) The settlement is **APPROVED**. The parties shall submit closing documents in each case no later than Wednesday, September 9 at 4:00 PM.

IT IS SO ORDERED.

Date: August 29, 2016

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge